IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
THURSDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE
WRIT PETITION NO : 15028 of 1994

Between:
G. LAKSHMAIAH S./O. CHAKKARRAIAH
r/o. Bairegipatteda, Tirupathi. ..... PETITIONER

and
1)The District Collector, Chittoor.
2)The Executive Officer, Tirumala Tirupati Devasthanams, Tirupati.
3)The Revenue Divisional Officer, Tirupati.
4)The Mandal Revenue Officer, Tirupati (Urban)
5)The Commissioner of Tirupati Municipality, Tirupati.
6)H.Anand alias Ananda Naidu s/o. H. Narayanaswamy Naidu
S.T.V.Nagar, Tirupati, Chittoor dist.
7)G. Delhi Babu S/o. Chinnaswamy
S.T.V.Nagar, Tirupati, Chittoor dist.
8)S.B. Basha S/o. Ghouse Mohiddin
S.T.V.Nagar, Tirupati, Chittoor dist.
9)Jagadeesh S/o. Angamutthu
S.T.V.Nagar, Tirupati, Chittoor dist.
.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue necessary directions order or writs particularly one in the nature of writ of Mandamus by declaring that the oral orders if any of the R.D.O., Tirupati not to evict the respondents as against The District collector Written orders, against respondents 6 to 9 are illegal, void and against the principles of natural justice and the relevant provisions of Land Encroachments Act and Municipalities Act and thereby duly direct the respondents 1 to 5 to proceed against the respondents 6 to 9 encroachers for their eviction from the encroachment portions of Government land by due process of law within a reasonable period.

Advocate for the Petitioner: MR.J.VENUGOPAL RAO

Advocate for the Respondent No.5: Mr. K.Bathi Rekddy, S.C. for Tirupathi Municipality.

For respondents 1 to 4: Govt. Pleader for Revenue

Advocate for the Respondents 6 to 9: Mr. D.Ramesh.

The Court made the following :

O R D E R:

Petitioner was allotted a plot in the lay out by Tirumala Tirupathi Devasthanams (for short "TTD") in survey nos. 241/1, 2,3 locally known as Bairagipatteda. Adjacent to the compound wall of the petitioner's house on eastern side, respondents 6 to 9 are having their houses. The petitioner is agitating that respondents should take action for their eviction.

As per affidavit of the Mandal Revenue Officer, Tirupati, he has issued notices to the respondents 6 to 9 but the Revenue Divisional Officer on preferring an appeal by respondents 6 to 9 stayed the eviction notice vide proceedings dt.4.6.1994 and the appeal was disposed of on 19.7.1995 with a direction to take action afresh as per the Land Encroachment Act.

The respondents 6 to 9 had filed civil suit O.S.596 of 1992 on the file of the I Addl. District Munsif, Tirupathi and an order was passed therein by the Civil

Court on 13.8.1993, not to evict them without following due process of law. It is stated that the petitioner had filed A.S.33 of 1996 before the III Additional District Judge, Tirupati and the same is pending finalisation. The respondents stated that the only purpose of the petitioner is to ensure that after the respondents 6 to 9 are evicted, he can occupy the land.

In such like matters, there can not be any direction issued against the respondents except to direct that they will act only in accordance with law. In case there is no restraint on them, they have to protect the property from encroachers and unless assignment is made to respondents 6 to 9, there is no reason why action will not be initiated against them for their eviction. Unless there be any lawful restraint on the respondents 1 to 5, the respondents to take action for eviction of the respondents 6 to 9 in accordance with law, within a period of six months from today.

Ordered accordingly. The Writ Petition is disposed of.

24.06.2004

CC to:

1)The District Collector, Chittor.
2)The Executive Officer, Tirumala Tirupati Devasthanams, Tirupati.
3)The Revenue Divisional Officer, Tirupati.
4)The Mandal Revenue Officer, Tirupati (urban).
5)The Commissioner of Tirupati Municipality, Tirupati.
6)Two CCs for Govt. Pleader for Revenue, High Court buildings, High

Court of A.P., Hyderabad (o.u.t.)
7)Two CD copies.

DRK/TVR.